

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

THEODORE PARKER,

Plaintiff,

v.

UNITED STATES OF AMERICA and
UNITED STATES POSTAL SERVICE,

Defendants.

Civil Action No. 4:22-CV-364

NOTICE OF REMOVAL

Please take notice that the United States hereby removes the action pending as Cause No. 048-329280-21 in the 48th Judicial District Court of Tarrant County, Texas to the Fort Worth Division of the United States District Court for the Northern District of Texas, and as support would respectfully show as follows:

1. Cause No. 048-329280-21 (captioned *Theodore Parker, Plaintiff, v. John Damian Rodriguez and United States Postal Service, Defendants*) was commenced upon plaintiff Theodore Parker's filing of an original petition against John Damian Rodriguez and the United States Postal Service (USPS) in the 48th Judicial District Court of Tarrant County, Texas. Parker alleged that a postal vehicle driven by Rodriguez within the course and scope of his employment with USPS negligently collided with a vehicle in which Parker was traveling. In his live pleading, a first amended original petition, Parker repeats these allegations. Parker seeks a monetary recovery for alleged medical injuries

and related damages under theories of negligence, negligent entrustment, and respondeat superior.

2. This action is removable pursuant to 28 U.S.C. § 2679(d)(2) because it involves a claim for negligence against a federal officer or employee and an appropriate Westfall Act certification has been issued under that statute.

3. Specifically, with respect to the matters alleged by Parker, Rodriguez was acting within the scope of his office or employment with USPS, and the Attorney General's designee has given a certification to that effect pursuant to 28 U.S.C. § 2679, 28 C.F.R. § 15.4, and Justice Manual § 4-5.630 (i.e., a Westfall Act certification). Accordingly, the United States is automatically substituted as the defendant in place of Rodriguez. *See* 28 U.S.C. § 2679(d)(2).

4. This removal is timely because no trial has yet occurred in the state court. *See* 28 U.S.C. § 2679(d)(2) (a removal under section 2679 may occur at any time before trial).

5. Submitted with this notice of removal is a copy of the Westfall Act certification, along with an index of documents from the state court action and copies of those documents.

Respectfully submitted,

CHAD E. MEACHAM
UNITED STATES ATTORNEY

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Certificate of Service

On April 28, 2022, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Brian W. Stoltz
Brian W. Stoltz
Assistant United States Attorney